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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

MCCORMICK, GABRIELLE A

ART UNIT

PAPER NUMBER

3629

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/621,750	BUCHTEL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gabrielle McCormick	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 15-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 15-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of Claims***

1. This action is in reply to the Request for Continued Examination filed on July 21, 2008.
2. Claims 1, 2, 6 and 15 have been amended.
3. Claims 23 and 24 have been added.
4. Claims 12-14 have been canceled.
5. Claims 1-11 and 15-24 are currently pending and have been examined.

### ***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-11 and 15-24 are rejected as being directed to non-statutory subject matter. Independent claims 1, 6 and 15 are method claims that recite process steps that are not tied to another statutory class, such as a particular apparatus. Based on Supreme Court precedent (*Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972) and *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) and recent Federal Circuit decisions, a 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. If neither of these requirements is met by the claim, the method is not a patent eligible process under 35 U.S.C. 101.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 6-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
10. Claim 6 requires “after hiring the applicant, *further* training the applicant about...” The intent of the *further training* is unclear as no initial training of the applicant is conducted.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. **Claims 1-5 and 23-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kotter (“leading Change: Why Transformation Efforts Fail”. Harvard Business Review. Reprint 95205, March-April 1995, pp. 59-67) in view of Attenello (“Re-engineering to achieve breakthrough results”. TMA Journal. Atlanta: Mar/Apr 1995. Vol. 15, Iss. 2; pg. 6) in view of Cobb et al. (“Alignment and strategic change: a challenge for marketing and human resources”. Leadership & Organization Development Journal. Bradford: 1998. Vol. 19, Iss. 1; pg. 32, hereinafter referred to as “Cobb”).
13. **Claims 1, 2, 3, 4 and 5:** Kotter discloses a method for improving the productivity of an organization with members, i.e. employees, through change. Change demands **leadership** (pg.

60; para. 4) and before any change, i.e. improvement in productivity, may occur the **head of the organization must be an active supporter** (pg. 62; para. 3). Kotter discloses an Eight Step method for Transforming an Organization (pg. 61). Step 1 requires establishing a sense of urgency through information from customers regarding business performance and customer satisfaction surveys (**provides the customer perspective**) (pg. 60; para. 7 and 8) and examining market and competitive realities to identify major opportunities (pg. 61; Step 1). The inclusion of customers in this step clearly produces **desired characteristics for the organization from the customer perspective**, as it is used to then form a leadership coalition (step 2) with the inclusion of a customer on a guiding coalition (pg. 62; para. 4) and a vision (step 3). **The creation of the vision comprises defining the cultural characteristics and behaviors** (pg. 63; para. 4: "Without a sensible **vision**...the **cultural change project** in the **sales force** (i.e., customer-facing members of the organization) will not add up in a meaningful way" and pg. 64; first full para: "In a regular performance appraisal, they (i.e., the executives) talk about how employee's **behavior** helps or undermines the **vision**": thus, cultural change is part of the vision and behavior is part of the vision, therefore **behavior that impacts cultural change must be defined by the executive** (i.e., the leadership) in order for feedback on the behavior to be communicated to an employee.) Kotter further discloses linking corporate culture (i.e., cultural characteristics for the organization) and behaviors. "Until **new** behaviors are rooted in social norms and shared values (i.e., corporate culture) they are subject to degradation..." Change in culture flows from new behaviors and attitudes that improve performance and people (i.e. employees) should be shown how the new approaches, **behaviors** and attitudes have helped improve performance, therefore, the behaviors must be established as part of the effort to change the culture in order to show how they **have helped** improve performance. (pg. 67; para. 2-3)). A strategy (action plan) is developed. (pg. 61 (3) and 63; para. 2). The characteristics are defined in recognizable behavioral terms (pg. 61 (4): "Teaching new behaviors by the example of the guiding coalition"). Hence, the characteristics of the vision are not already present in the organization and are therefore subsequently defined. In implementing change, one must change "systems, structures

or behaviors that seriously undermine the vision” (pg. 61; Step 5), thus changing systems, structures and behaviors that do not fit the vision. Consequently, the present characteristics of the organization that are inconsistent with the required characteristics (vision) are identified. Action plans (strategies) are then created for changing the organization to implement the vision, which includes the required characteristics. The action plans diminish the inconsistent present characteristics (items that do not fit the vision) (pg. 61). Kotter describes the importance of executives needing to “walk the talk” and how “Nothing undermines change more than behavior by important individuals that is inconsistent with their words.” (pg. 64; para. 3 and 4). Clearly, Kotter has delineated the importance of the leadership role in fostering improvement. Kotter links successful change to new behaviors being rooted in social norms and shared values with a resultant change in corporate culture. (pg. 67; para. 2 and 3). Kotter discloses transformation efforts such as a “cultural change project in the sales force” (pg. 63; para. 4). Inherent in a sales force are senior sales leaders and managers. Kotter clearly discloses the link between leadership, culture and behavior in the caution to ensure that next generations of top management (i.e., leadership) personify the new approach. (pg. 67; para. 4).

14. Kotter does not disclose validating the characteristics and action plan with a focus group or training the leadership to conduct a focus session.
15. Attenello discloses a model for successful re-engineering that involves evaluating strengths, weaknesses and opportunities that include **culture and management style** and **customer service levels** (pg. 1; para. 9). Teams of employees are formed to evaluate current strengths and weaknesses and identify opportunities and establish priorities for change, hence, the teams validate the required characteristics of the organization and assist in creating the action plans to implement change. The team (i.e., focus group) uses tools such as interviews with employees and customers, work flow analyses and benchmarking to compare with competitors. This inherently involves “tuning” the culture and the action plan. Consequently, the action plans can be considered validated by the employees (pg. 1; para. 6, 7 and 9; pg. 2; para. 1 -3). Further, senior management conducts “town meetings” in which their endorsement of the re-engineering is

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communicated. (pg. 3; para. 5). It would have been obvious at the time of the invention to have a team of employees, including first line managers, (i.e., focus group) validate the changes that are to occur in an organization. By having employee buy-in and input regarding prospective changes, employees feel a greater sense of shareholder value and are more receptive to implementing the changes.

16. Attenello further discloses a training program to provide employees with skills they need to operate in an environment based on collaboration. (pg 3; para. 2). It is obvious that such a training program would include training for conducting a town meeting or a running the redesign team brainstorming sessions as these are common skills used in team-based environments.
17. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included training and validating plans with employees, as disclosed by Attenello, in the system disclosed by Kotter, for the motivation of smoothing the implementation and therefore increasing the likelihood of a successful transition.
18. Kotter does not explicitly disclose that the various forms of customer involvement in creating the change in Kotter's Eight Step method include a customer perspective that comprises *what the customers would like to see from the organization*.
19. Cobb discloses a customer-employee alignment where "Vigilant attention to alignment is a leadership process absolutely essential for major cultural change of an organization." The company's culture and behavior of the employees with aligned with the strategy for new customer focus. The organization focused on customer needs (i.e., *what the customers would like to see from the organization*). (pg. 2; para. 12-13). As a means of determining customer needs, Cobb discloses performing market research and gathering customer satisfaction data (pg. 4; para. 10).
20. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included gathering customer satisfaction that identifies customers' needs and expectations, as disclosed by Cobb, in the system of Kotter for the motivation of explicitly designing customer satisfaction surveys that provide customer needs data.

21. **Claim 23:** Kotter discloses on pg. 63; para. 4, a **cultural change project** in the **sales force**. Kotter discloses various cultural characteristics (behaving in a customer-oriented way (pg. 64; para. 4), celebrating short-term goals (pg. 65; para. 3) and encouraging team work (pg. 61; step 2). Kotter does not disclose taking pride, having passion, being proud, confident and successful, being supported and being driven to win.
22. However, these differences are only found in the **nonfunctional descriptive data** and are not functionally involved in the steps recited. **The cultural characteristics would be identified regardless of the specificity of the type characteristic.** Thus, this descriptive data will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).
23. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included various cultural characteristics related to sales because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation cultural characteristics does not patentably distinguish the claimed invention.
24. **Claim 24:** Kotter discloses developing strategies for achieving the vision (pg. 61; Step 3); planning for and creating short-term wins that includes rewarding employees, thus measuring success or progress is disclosed (pg. 61; Step 6) and teaching new behaviors by examples (pg. 61; Step 4) and changing systems, structures and policies that don't fit (pg. 61; Step 7) (i.e., implementation of the action plan). Additionally, evidence that expected results are being produced is communicated and performance measures such as market shares, net income and customer satisfaction are evaluated. Successful transformations require establishing goals in the yearly planning system, achieving the objectives and rewarding people. (pg. 65; para. 3-5).
25. **Claims 6-7 and 9-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan ("Avoid hit-or-miss hiring". HRMagazine; Alexandria; Nov. 1998) in view of Kotter ("leading Change: Why Transformation Efforts Fail". Harvard Business Review. Reprint 95205, March-April



1995, pp. 59-67) in view of Cobb et al. ("Alignment and strategic change: a challenge for marketing and human resources". Leadership & Organization Development Journal. Bradford: 1998. Vol. 19, Iss. 1; pg. 32, hereinafter referred to as "Cobb") in view of Robbins (Organizational Behavior. Prentice Hall, Upper Saddle River, NJ 1998, pp. 595-616).

- 26. Claims 6-7 and 9-10:** Ryan discloses a systematic approach to making successful hiring decisions. Management creates a job description to reflect the essential duties of the position, the conditions under which the duties are carried out and any special qualifications needed to successfully perform those duties. (pg. 3; para. 9). The job elements include certain behavioral characteristics; consequently, management identifies characteristics in recognizable behavioral terms that are needed in a member of an organization. (pg. 3; para. 12). A profile of the ideal candidate is created and shared with all persons involved in reviewing applications, and resumes or conducting interviews. (pg. 3; para. 10). Consequently, the recruiters are trained by informing them about the characteristics as embodied in the profile for the ideal candidate. Training is also provided to interviewers that includes follow-up to vague or incomplete responses. (pg. 4; para. 2) During the interview, the qualities or abilities, i.e. characteristics that are important for that particular job are described to the applicant, including "enthusiasm, flexibility, sensitivity, assertiveness or other positive personal traits. You need to consider which of these characteristics are required for the job at hand". Questions are then developed to draw out evidence of these characteristics in a given candidate (pg. 3; para. 12), thus these questions facilitate matching of the applicant to the organization based on personality (i.e., cultural, for an organization) characteristics. The hiring manager receives a description of education and work experience relating to the characteristics, i.e. the applicant submits a resume. (pg. 4; para. 1). The hiring manager then assesses a degree of match between the applicant and his resume and the information relating to the job position, i.e. characteristics. (pg. 4; para. 3-5: PATs are administered; para. 7; resumes compared against job needs). It is obvious that in finding evidence in a given candidate of the certain behavioral characteristics required for the job (Ryan, pg. 3; para. 12) that this information would be used in assessing a degree of match as part of the

hiring process. If the applicant has a high degree of match to meet the job position, he is hired. (pg. 5; para. 2).

27. Ryan does not disclose obtaining cultural characteristics for a sales or service organization expressed in behavioral terms using customer research and a leader to define the characteristics.
28. Kotter however discloses a method for improving the productivity of an organization with member, i.e. employees, through change. Kotter discloses an Eight Step method for Transforming an Organization (pg. 61). Step 1 requires establishing a sense of urgency through information from customers regarding business performance and customer satisfaction surveys (provides the customer perspective) (pg. 60; para. 7 and 8). The inclusion of customers in this step clearly produces desired characteristics for the organization from the customer perspective, as it is used to then form a leadership coalition (step 2) and a vision (step 3). The creation of the vision comprises defining the cultural characteristics and behaviors (Kotter discloses corporate culture (i.e., cultural characteristics for the organization) and the relationship between behaviors. "Until new behaviors are rooted in social norms and shared values (i.e., corporate culture) they are subject to degradation..." Change in culture flows from new behaviors and attitudes that improve performance. (pg. 67; para. 2-3)). Kotter also teaches that without "a sensible vision...the cultural change project in the sales force will not add up in a meaningful way." (pg. 63; para. 4), thus demonstrating the process in which vision comprises cultural characteristics. Kotter describes the importance of executives needing to "walk the talk" and how "Nothing undermines change more than behavior by important individuals that is inconsistent with their words." (pg. 64; para. 3 and 4). Clearly, Kotter has delineated the importance of the leadership role in communicating improvement vision.
29. Kotter does not explicitly disclose that the various forms of customer involvement in creating the change in Kotter's Eight Step method include a customer perspective that comprises *what the customers would like to see from the organization*.
30. Cobb discloses a customer-employee alignment where "Vigilant attention to alignment is a leadership process absolutely essential for major cultural change of an organization." The

company's culture and behavior of the employees with aligned with the strategy for new customer focus. The organization focused on customer needs (i.e., *what the customers would like to see from the organization*). (pg. 2; para. 12-13). As a means of determining customer needs, Cobb discloses performing market research and gathering customer satisfaction data (pg. 4; para. 10).

31. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included gathering customer satisfaction that identifies customers' needs and expectations, as disclosed by Cobb, in the system of Kotter for the motivation of explicitly designing customer satisfaction surveys that provide customer needs data.
32. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included using a leader to define characteristics of a sales organization identified through customer research with Ryan's systematic approach to hiring decisions because without understanding the true needs of an organization (as defined by the customer input and the leader's translation of the customer input into organizational output), the "systematic approach in the hiring process" (Ryan; pg. 5; para. 3) will only be as effective as the job needs and behaviors identified. The goal of the hiring process is to find the best people available that will contribute to the well being of the organization, whether it is a sales or service organization.
33. Ryan does not disclose training an applicant about the cultural characteristics of the organization after hiring by taking a corporate level class, reviewing a master checklist, or taking a solutions operations class.
34. Robbins, however, discloses that IBM hires applicants who "fits within the IBM way of doing things" (pg. 600; para. 4) and that the hiring decision maker judges how well a candidates will fit into the organization based on values that are consistent with the organization. (pg. 605; para. 2). Further, new hires must be indoctrinated into the organization's culture through various corporate level training regimes. (pg. 607; para. 2-3).
35. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included training, as disclosed by Robbins, in the system disclosed by Ryan, so that it is less likely that the new employee will disturb the beliefs and customs that are in place.

(Robbins; pg. 607; para. 2). Training an employee about the cultural characteristics will aid the employee in assimilating into the organization where he/she can then ramp up to be a fully productive member of the organization. By delineating what is expected, an employee stands a greater likelihood of meeting those expectations, which benefits both the employee and the employer.

36. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan ("Avoid hit-or-miss hiring". HRMagazine; Alexandria; Nov. 1998) in view of Kotter ("leading Change: Why Transformation Efforts Fail". Harvard Business Review. Reprint 95205, March-April 1995, pp. 59-67) in view of Cobb et al. ("Alignment and strategic change: a challenge for marketing and human resources". Leadership & Organization Development Journal. Bradford: 1998. Vol. 19, Iss. 1; pg. 32, hereinafter referred to as "Cobb") in view of Robbins (Organizational Behavior. Prentice Hall, Upper Saddle River, NJ 1998, pp. 595-616) in further view of Attenello ("Re-engineering to achieve breakthrough results". TMA Journal. Atlanta: Mar/Apr 1995. Vol. 15, Iss. 2; pg. 6).
37. **Claim 8:** Ryan in view of Kotter does not disclose validating the action plan with a focus group.
38. Attenello discloses a model for successful re-engineering. Teams of employees are formed to evaluate current strengths and weaknesses and identify opportunities for improvement, hence, the teams validate the required characteristics of the organization and assist in creating the action plans to implement change. Consequently, the action plans can be considered validated by the employees (pg. 1; para. 6, 7 and 9; pg. 2; para. 1 and 3). Further, senior management conducts "town meetings" in which their endorsement of the re-engineering is communicated. (pg. 3; para. 5). It would have been obvious at the time of the invention to have a team of employees, including managers, (i.e., focus group) validate the changes that are to occur in an organization. By having employee buy-in and input regarding prospective changes, employees feel a greater sense of shareholder value and are more receptive to implementing the changes.
39. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included validating plans with employees, as disclosed by Attenello, in the

system disclosed by Kotter, for the motivation of smoothing the implementation and therefore increasing the likelihood of a successful transition and ascertaining whether the implementation has been effective in producing the targeted results.

40. **Claim 11** is rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan ("Avoid hit-or-miss hiring". HRMagazine; Alexandria; Nov. 1998) in view of Kotter ("leading Change: Why Transformation Efforts Fail". Harvard Business Review. Reprint 95205, March-April 1995, pp. 59-67) in view of Cobb et al. ("Alignment and strategic change: a challenge for marketing and human resources". Leadership & Organization Development Journal. Bradford: 1998. Vol. 19, Iss. 1; pg. 32, hereinafter referred to as "Cobb") in view of Robbins (Organizational Behavior. Prentice Hall, Upper Saddle River, NJ 1998, pp. 595-616) in further view of Herman ("Stability is watchword for effective workforce". HR Focus; New York: June 1999).
41. **Claim 11:** Ryan in view of Kotter discloses the method of claim 6. Ryan does not disclose hiring targets.
42. Herman, however, discloses building a stable, competent, high-performing workforce using hiring targets. (pg. 2; para. 1: "leaders can plan and project how many people will be needed").
43. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included hiring targets, as disclosed by Herman, in the system disclosed by Ryan, for the motivation of fulfilling the optimal design and structure in order for the organization to accomplish its desired results. (Herman; pg. 2; para. 1).
44. **Claims 15-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kotter ("leading Change: Why Transformation Efforts Fail". Harvard Business Review. Reprint 95205, March-April 1995, pp. 59-67) in view of Attenello ("Re-engineering to achieve breakthrough results". TMA Journal. Atlanta: Mar/Apr 1995. Vol. 15, Iss. 2; pg. 6) in view of Robbins (Organizational Behavior. Prentice Hall, Upper Saddle River, NJ 1998, pp. 595-616) in view of Cobb et al. ("Alignment and strategic change: a challenge for marketing and human resources". Leadership &

Organization Development Journal. Bradford: 1998. Vol. 19, Iss. 1; pg. 32, hereinafter referred to as "Cobb").

- 45. Claims 15, 16, 17, 18, 19, 20, 21 and 22:** Kotter discloses a method for improving the productivity of an organization with member, i.e. employees, through change. Change demands leadership (pg. 60; para. 4) and before any change, i.e. improvement in productivity, may occur the head of the organization must be an active supporter (pg. 62; para. 3). Kotter discloses an Eight Step method for Transforming an Organization (pg. 61). Step 1 requires establishing a sense of urgency through information from customers regarding business performance and customer satisfaction surveys (provides the customer perspective) (pg. 60; para. 7 and 8). The inclusion of customers in this step clearly produces desired characteristics for the organization from the customer perspective, as it is used to then form a leadership coalition (step 2) and a vision (step 3). The creation of the vision comprises defining the cultural characteristics and behaviors (Kotter discloses corporate culture (i.e., cultural characteristics for the organization) and the relationship between behaviors. "Until new behaviors are rooted in social norms and shared values (i.e., corporate culture) they are subject to degradation..." Change in culture flows from new behaviors and attitudes that improve performance. (pg. 67; para. 2-3)). Kotter also teaches that without "a sensible vision...the cultural change project in the sales force will not add up in a meaningful way." (pg. 63; para. 4), thus demonstrating the process in which vision comprises cultural characteristics. The characteristics are defined in recognizable behavioral terms (pg. 61 (4), 64; para. 1 and 67; para. 3). Hence, the characteristics of the vision are not already present in the organization. It is obvious that the identification of cultural characteristics not present is performed subsequent to identifying the vision and prior to developing the strategies in order to perform step 7 (pg. 61) where items are changed that don't fit the vision. In implementing change, one must change systems, structures or behaviors that seriously undermine the vision, thus changing systems, structures and behaviors that do not fit the vision. Consequently, the present characteristics of the organization that are inconsistent with the required characteristics (vision) are identified. Action plans (strategies) are then created for

changing the organization to implement the vision, which includes the required characteristics. The action plans diminish the inconsistent present characteristics (items that do not fit the vision) (pg. 61). Kotter describes the importance of executives needing to “walk the talk” and how “Nothing undermines change more than behavior by important individuals that is inconsistent with their words.” (pg. 64; para. 3 and 4). Clearly, Kotter has delineated the importance of the leadership role in fostering improvement. These disclosures, coupled with Step 4 (pg. 61): “Teaching new behaviors by the example of the guiding coalition” disclose that implementation begins with leaders of the organization, as the guiding coalition (i.e., the leaders) cannot teach the new behaviors if they have not been implemented with them first. Particularly, Kotter links successful change to new behaviors being rooted in social norms and shared values with a resultant change in corporate culture. (pg. 67; para. 2 and 3). Kotter’s “Powerful Guiding Coalition” is created prior to creating a vision and developing strategies (pg. 61; (2 and 3) by helping “develop a shared assessment of their company’s problems and opportunities” during off-site retreats (i.e., workshops). (pg. 62; para. 6). It is obvious that shared norms would be implemented among the leaders as much as several months prior to rolling out an action plan across an organization. This would provide the leaders a chance to effectively conceptualize the changes that need to take place and to build consensus. Kotter discloses transformation efforts such as a “cultural change project in the sales force” (pg. 63; para. 4).

46. Kotter does not disclose validating the action plan with a focus group or measuring progress in the implementation.
47. Attenello discloses a model for successful re-engineering. Teams of employees are formed to evaluate current strengths and weaknesses and identify opportunities for improvement, hence, the teams validate the required characteristics of the organization and assist in creating the action plans to implement change. Consequently, the action plans can be considered validated by the employees (pg. 1; para. 6, 7 and 9; pg. 2; para. 1 and 3). Further, senior management conducts “town meetings” in which their endorsement of the re-engineering is communicated. (pg. 3; para. 5). It would have been obvious at the time of the invention to have a team of employees,

including managers, (i.e., focus group) validate the changes that are to occur in an organization. By having employee buy-in and input regarding prospective changes, employees feel a greater sense of shareholder value and are more receptive to implementing the changes. Attenello also discloses evaluating results, including measuring “whether the changes that have been introduced are producing the intended results.” (pg. 2; para. 9).

48. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included validating plans with employees and measuring results, as disclosed by Attenello, in the system disclosed by Kotter, for the motivation of smoothing the implementation and therefore increasing the likelihood of a successful transition and ascertaining whether the implementation has been effective in producing the targeted results.
49. Kotter does not disclose developing shared executive norms.
50. Robbins discloses creating shared executive norms for the leaders and senior leaders in behavioral terms (pg. 606; para. 2). It is obvious to have the norms be compatible with characteristics or goals of an organization. By having the norms compatible with characteristics, the organization's goals are more likely to be achieved than with conflicting norms and characteristics. It is also obvious to implement action plans to implement the executive norms and to add the executive norms to the characteristics for the members. If no plans are implemented, then change cannot occur.
51. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included shared executive norms, as disclosed by Robbins, in the system of Kotter for the motivation of create trust and communication amongst the members of the guiding coalition. (Kotter; pg. 62; para. 6)
52. Kotter does not explicitly disclose that the various forms of customer involvement in creating the change in Kotter's Eight Step method include a customer perspective that comprises *what the customers would like to see from the organization*.
53. Cobb discloses a customer-employee alignment where “Vigilant attention to alignment is a leadership process absolutely essential for major cultural change of an organization.” The



company's culture and behavior of the employees with aligned with the strategy for new customer focus. The organization focused on customer needs (i.e., *what the customers would like to see from the organization*). (pg. 2; para. 12-13). As a means of determining customer needs, Cobb discloses performing market research and gathering customer satisfaction data (pg. 4; para. 10).

54. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have included gathering customer satisfaction that identifies customers' needs and expectations, as disclosed by Cobb, in the system of Kotter for the motivation of explicitly designing customer satisfaction surveys that provide customer needs data.

### ***Response to Arguments***

55. Applicant's arguments filed July 21, 2008 have been fully considered but they are moot in view of the new grounds of rejection.
56. Applicant argues that Kotter has a different motivation for conducting a customer satisfaction survey. This is irrelevant as the customer satisfaction survey, regardless of its origins, serves to provide desired characteristics for the organization through research with customers.
57. With regard to claims 1, 6 and 15, applicant argues that Kotter does not disclose "ascertaining through research with customer of the organization desired characteristics for the organization from a customer perspective". The Examiner points to several citations in Kotter which refer to customer input: companies rely on customers to bring unwanted information regarding a competitive position (pg. 60; para. 7); customer-satisfaction surveys (pg. 60; para. 8); and inclusion of a customer on a guiding coalition (pg. 62; para. 4). It is old and well known to use customer satisfaction surveys to ascertain "desired characteristics". Further, the direct involvement of a customer with the leadership set up to guide the change would also provide research from the customer perspective for desired characteristics. Applicant's disclosure provides that this "ascertaining" can be from "a voice of the customer study". (P[0022]). Again, customer surveys are understood to comprise a customer study.

58. Applicant argues that Kotter does not disclose "employing the leadership of the organization to define cultural characteristics for the organization using, at least in part, the desired characteristics ascertained through research with the customers of the organization". The Examiner disagrees. Kotter discloses an Eight Step transformation process. Step 1 used feedback from customers and surveys as discussed above to identifying crises and major opportunities (pg. 61). Step 2- 5 involve implementation steps that include creating leadership for the change process (as it stems from step 1, the leadership is directed to the crises and opportunities discovered in step 1, such as the "desired characteristics".) Kotter discloses a cultural change project (i.e., cultural characteristics defined based on desired characteristics) (pg. 63; para. 4); treating people fairly (pg. 64; para at top of page) and executives (i.e., leadership) who "walk the talk" to become a symbol of the new corporate culture. (pg. 64; para. 3).
59. Kotter provides a disclosure for "defining by leadership...the cultural characteristics in behavioral terms": "in successful cases of major change (executives) learn to "walk the talk." They become a living symbol of the new corporate culture." (pg. 64; para. 3).
60. Kotter further, in Step 4, communicates the vision and strategies and teaches new behaviors. (pg. 61). The introduction of Attenello teaches the additional step of validating the vision, strategies and new behaviors using a focus group.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabrielle McCormick whose telephone number is (571)270-1828. The examiner can normally be reached on Monday - Thursday (5:30 - 4:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3629

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/G. M./  
Examiner, Art Unit 3629

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